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*in Opinions*

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CONCORD, NH

Mr. James J. Barry, Commissioner  
Welfare Department  
State House Annex  
Concord, New Hampshire

Dear Mr. Barry:

Mr. Schaffer has recently discussed with me the status of supervisory unions under RSA 101; and he has asked my opinion concerning the eligibility of the employees of these organizations for Old Age and Survivors Insurance coverage.

It is my view that supervisory unions are political subdivisions of the State as the term is defined in RSA 101:2:VI, and hence that their employees may have extended to them Old Age and Survivors Insurance benefits under an agreement made pursuant to RSA 101:3.

Supervisory unions are created by the State Board of Education acting pursuant to authority granted by the General Court. RSA 186:11eI. The functions of a supervisory union are few but real. One such function is to nominate the superintendent of the union, to fix his salary and to arrange for its payment. RSA 189:43.

Another is to employ certain specialized supervisory personnel, RSA 189:47. It may also employ office personnel, and with respect to this it is noted that they are by law eligible to participate in the State Employees Retirement System. RSA 100:20.

While political subdivisions are generally organized in a corporation form, no requirement that the corporate device must be followed is seen.

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ATTORNEY GENERAL

James J. Barry, Commissioner -- 2.

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Referring to RSA 101:2:VI it is noted that the supervisory union is clearly an instrumentality of the district which it serves. It is legally separate from these districts. It is a juristic entity, the employees of which are not employees of the constituent districts.

Shortly, the supervisory union exists in concrete form separate and apart from other legal entities. Among its powers is the power to employ in its own name. Such qualities, in my view, render the supervisory union a political subdivision as defined in the statute, and consequently its employees eligible for Old Age and Survivors Insurance.

Very truly yours,

Warren E. Waters  
Deputy Attorney General

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